

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

November 14, 2007

Call To Order: Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Timothy A. Hodson, Gene Huguenin, Bob Leidigh and Ray Remy were present.

Before moving on to the agenda items, Chairman Johnson announced that Agenda Item 15 was being held over.

Item #1 - Public Comment. This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

Chairman Johnson asked if there was anyone in the audience who had any comments to make to the Commissioners, and asked that if they had a business card to give one to the Commission secretary.

- 1) Debra Kaplan spoke on behalf of the California Political Attorneys Association (CPAA) regarding a letter that she recently sent to the Commission.
- 2) Brandon Sanders spoke on his own behalf. He commented on LA Times news articles alleging that Senator Carol Migden has failed to comply with the Political Reform Act.

Item #2 - Approval of the October 11, 2007, Commission meeting minutes.

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve the October 11, 2007, Commission meeting minutes as submitted.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #3 - In the Matter of Aera Energy LLC, FPPC No. 07/026. Staff: Commission Counsel Galena West and Investigator II Catherine Gallardo. Respondent Aera Energy LLC is a major donor committee that contributed almost \$32 million to the "Californians Against Higher Taxes – No on Proposition 87" committee prior to the November 7, 2006 statewide general election. Respondent failed to electronically file a late contribution report within 24 hours of making a late contribution, in violation of Government Code Section 84605, subdivision (a) (3 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of 3 counts and a \$15,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item # 4 - In the Matter of Lyle Sauget, FPPC No. 07/365. Staff: Political Reform Consultant Wayne Imberi. Lyle Sauget, Siskiyou County Grand Jury member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #5 - In the Matter of Anne Barbour, FPPC No. 07/492. Staff: Political Reform Consultant Wayne Imberi. Anne Barbour, Executive Director, Intercollegiate Athletics, University of California, Berkeley, failed to timely file her 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #6 - In the Matter of Palmer Taylor, FPPC No. 07/493. Staff: Political Reform Consultant Wayne Imberi. Palmer Taylor, Associate Vice Chancellor, Health Sciences, University of California, San Diego, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #7 - In the Matter of Robert Herrera, FPPC No. 07/260. Staff: Political Reform Consultant Teri Rindahl. Robert Herrera, Imperial County Planning Commissioner, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87203 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #8 - In the Matter of Robert Crain, FPPC File No. 07/602. Staff: Political Reform Consultant Jeanette Turvill. Robert Crain, failed to timely file a 2006 annual statement of economic interests in violation of Section 87203 of the Government Code as mayor of the City of Blythe and also failed to file a 2006 annual statement of economic interests under Section 87300 of the Government Code as a member of the Mojave Desert Air Quality Management District (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of two counts and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #9 - Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson. The following entity has entered into a stipulation for failing to file major donor campaign statements that were due during calendar years 2006 and 2007, in violation of Government Code Section 84200:

- a. In the Matter of Best, Best & Krieger, LLP, FPPC No. 07/043.** Best, Best & Krieger, LLP, of Riverside, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$12,000 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- b. In the Matter of Mary-Jane Wagle, FPPC No. 07/308.** Mary-Jane Wagle, of Los Angeles, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$20,908.13 in 2005 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- c. In the Matter of Stephen Matich, FPPC No. 07/376.** Stephen Matich, of Yucaipa, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$22,300 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

d. In the Matter of American President Lines, LTD, FPPC No. 07/513.

American President Lines, LTD, of Oakland, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$21,520 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a monetary penalty of \$400.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

e. In the Matter of RA Roseman Holdings, LLC, FPPC No. 07/528. RA

Roseman Holdings, LLC, of Beverly Hills, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

f. In the Matter of Karen Kamilos, FPPC No. 07/530. Karen Kamilos, of Fair Oaks, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$22,300 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

g. In the Matter of Advantage Construction, FPPC No. 07/569. Advantage Construction, of Irvine, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$20,000 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

h. In the Matter of Moving America Forward Foundation, Inc., FPPC No. 07/574. Moving America Forward Foundation, Inc., of Albuquerque, New

Mexico, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000 in 2006 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #10 - Failure to Timely File Late Contribution Reports – Proactive Program.

Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson. The following persons have entered into a stipulation for failure to file a late contribution report in 2006 in violation of Government Code Section 84203:

- a. In the Matter of Barbara R. Banke, FPPC No. 07/516.** Barbara R. Banke, of Santa Rosa, failed to timely disclose late contributions totaling \$32,800 (7 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of seven counts and a \$4,920 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- b. In the Matter of Alan S. Davis, FPPC No. 07/548.** Alan S. Davis, of San Francisco, failed to timely disclose a late contribution totaling \$13,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a monetary penalty of \$1,950.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- c. In the Matter of Perona, Langer, Beck, Lallande & Serbin, FPPC No. 07/556.** Perona, Langer, Beck, Lallande & Serbin, of Long Beach, failed to timely disclose late contributions totaling \$16,500 (5 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of five counts and a \$2,475 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- d. In the Matter of Advantage Construction, FPPC No. 07/568.** Advantage Construction, of Irvine, failed to timely disclose a late contribution totaling \$20,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$3,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- e. In the Matter of Desert Valley Hospital, Inc., FPPC No. 07/572.** Desert Valley Hospital, Inc., of Victorville, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

- f. In the Matter of Max Palevsky, FPPC No. 07/555.** Max Palevsky, of Los Angeles, failed to timely disclose late contributions totaling \$22,900 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of two counts and a \$3,435 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #11 - In the Matter of Phillip Cox, Committee to Elect Phil Cox, and Ralph Anderson, FPPC No. 04/508. Staff: Commission Counsel Jesse Mainardi and Investigator III Leon Nurse-Williams. Respondent Phillip Cox was elected to the Tulare County Board of Supervisors on November 2, 2004. Respondents Phillip Cox, his controlled committee, Committee to Elect Phil Cox, and its treasurer, Ralph Anderson, failed to timely file a semi-annual campaign statement on August 2, 2004, in violation of Government Code Section 84200(a) (1 count). Respondents also failed to timely file a pre-election campaign statement on October 5, 2004, in violation of Government Code Sections 84200.5(b) and 84200.7(b) (1 count). Total proposed penalty: \$4,000.

Moved by Commissioner Leidigh and seconded by Commissioner Remy directing Commission staff to rescind this settlement offer and renegotiate a new settlement offer seeking a greater fine to be presented at a future Commission meeting.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item # 12 - Failure to Timely File Late Contribution Reports – Proactive Program. Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson. The following persons have entered into a stipulation for failure to file a late contribution report in 2006 in violation of Government Code Section 84203:

a. In the Matter of Milstein, Adelman & Kreger, LLP, FPPC No. 07/295.

Milstein, Adelman & Kreger, LLP, of Santa Monica, failed to timely disclose late contributions totaling \$16,500 (4 counts).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of four counts and a \$2,475 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

b. In the Matter of Sean M. McAvoy, FPPC No. 07/473. Sean M. McAvoy, of Hillsborough, failed to timely disclose a late contribution totaling \$22,300 (1 count).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a monetary penalty of \$3,345.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

c. In the Matter of Ross A. Jaffe, FPPC No. 07/547. Ross A. Jaffe, of Atherton, failed to timely disclose late contributions totaling \$31,600 (3 counts).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of three counts and a monetary penalty of \$4,740.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #13 - Approval of Revised Campaign Disclosure Forms. Staff: Technical Assistance Division Chief Carla Wardlow. Staff requested approval of revised campaign disclosure Form 470 (Officeholder and Candidate Campaign Statement, Short Form), Form 496 (Independent Expenditure Report) and Form 497 (Contribution Report). Two versions of Forms 496 and 497 were presented, one for state electronic filers and one for non-electronic filers.

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve the forms as submitted.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #14 - Approval of Statement of Economic Interests Forms and Instructions for 2007/08. Staff: Technical Assistance Division Chief Carla Wardlow. Staff requested approval of the 2007/08 Statement of Economic Interests (Form 700) and Form 700 Reference Pamphlet; Statement of Economic Interests for Auditors, Claims Managers/Adjusters (Form 700-A); and the Statement of Economic Interests for Principal Investigators (Form 700-U).

Staff recommended a modification to the Form 700 Reference Pamphlet on page 13, in the section titled "Loan Restrictions" to change the first sentence to read: "State and local elected and appointed public officials ~~and employees~~ are prohibited from...."

Moved by Commissioner Hodson and seconded by Commissioner Leidigh to approve the forms as submitted and modified.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #15 - Adoption of Proposed Regulation 18530.31. Staff: Senior Commission Counsel Lawrence T. Woodlock and General Counsel Scott Hallabrin. Staff proposed adoption in February of Regulation 18530.31, interpreting the critical language of Section 85303 which applies contribution limits to committees when the contribution is made or used "for the purpose of making contributions to candidates for elective state office."

This item was held over.

Item #16 - Adoption of Proposed Amendments to Regulation 18530.4 - Legal Defense Funds –State Candidates and Officers. Staff: Commission Counsel Emelyn Rodriguez and General Counsel Scott Hallabrin. Staff proposed amending Regulation 18530.4 to clarify existing provisions of and add requirements to the Commission's regulation on legal defense funds as applicable to state candidates and officers. The proposed amendments govern the establishment of the legal defense account and controlled committee, require recordkeeping and audits, limitations on the use of legal defense funds, disposition of remaining funds, and termination and reopening of a legal defense committee.

Moved by Commissioner Huguenin and seconded by Commissioner Leidigh to delete the word "direct" from page 3, line 18.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Moved by Chairman Johnson, agreed to by Commissioner Huguenin, and seconded by Commissioner Leidigh to amend Commissioner Huguenin's motion by deleting the word "direct" on page 3, line 18, and adding to paragraph 1, at the top of page 4, a list of items that would be specifically prohibited.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Chairman Johnson put this matter on hold, directed staff to work on changes to language in the regulation to implement the motion, and stated the Commission would reconvene after the executive session to hear Item 16 further (see page 10).

Item #17 - Adoption of Proposed Regulation 18531.2 – Allocating Expenditures Between Primary and General Elections; Refunding General Election Contributions.

Staff: General Counsel Scott Hallabrin and Technical Assistance Chief Carla Wardlow. Government Code Section 85318 requires state candidates who have lost in the primary election to refund contributions received for the general election. These refunds may be reduced by expenditures made toward the general election. The proposed regulation clarifies the rules for determining whether an expenditure is allocable to the primary or general election. As revised after prenotice discussion, the proposed regulation also clarifies how to handle non-monetary contributions to comply with the requirement of returning general election contributions.

Moved by Commissioner Hodson and seconded by Commissioner Huguenin to adopt the regulation as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #18 - Adoption of Proposed Amendment to Regulation 18421.2 – Street

Address. Staff: General Counsel Scott Hallabrin. Staff proposed amending Regulation 18421.2 to allow a person to use an Army and Air Force Post Office or Fleet Post Office address when making a campaign contribution if they do not have a street address as it is currently defined in Regulation 18421.2.

Moved by Commissioner Remy and seconded by Commissioner Leidigh to adopt the proposed amendment as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #19 - Legislative Report. Staff: Government Affairs Director Whitney Barazoto, as submitted.

Item #20 - Litigation Report. Staff: General Counsel Scott Hallabrin, as submitted.

Item #21 - Executive Director's Report. Staff: Executive Director Michael B. Salerno, as submitted.

Item #22 - Chairman's Report. Chairman Ross Johnson.

Chairman Johnson announced that a new page was added to the FPPC website listing all behested payments, which are solicited by members of the Assembly, Senate and statewide elected officers. Now, the public and the media can see the monies for the years 2002, 2003, 2004, 2005, 2006 and 2007, to-date. Shortly, the Commission will have all reports on the website back to inception of the behested payments, 1998, and thereafter the payments will be posted to the website immediately as they are reported. He thanked everyone involved, with particular attention to Linda Cassady of the Technical Assistance Division for compiling and putting together all the information.

Chairman Johnson adjourned open session at 11:20 a.m. and stated that the Commission would immediately convene in closed session.

The Commission reconvened in open session at 12:25 p.m. The Commission returned to Item 16, and the revisions to this regulation were resubmitted by staff as follows: (1) the word “direct” was deleted on page 3, line 18; and (2) a list of items that are specifically prohibited was added to paragraph 1, at the top of page 4.

Moved by Commissioner Huguenin and seconded by Commissioner Leidigh to adopt the proposed amendments with the revisions as resubmitted by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

Chairman Johnson advised that no reportable action was taken in closed session.

Chairman Johnson adjourned the meeting at 12:35 p.m.

Dated: November 28, 2007

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved by:

Ross Johnson
Chairman